

# Fordham Law Review

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Volume 85 | Issue 6

Article 5

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2017

## Reflections on the Challenge of Inez Moore: Family Integrity in the Wake of Mass Incarceration

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### Recommended Citation

Ann Cammett, *Reflections on the Challenge of Inez Moore: Family Integrity in the Wake of Mass Incarceration*, 85 Fordham L. Rev. 2579 (2017).

Available at: <https://ir.lawnet.fordham.edu/flr/vol85/iss6/5>

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# REFLECTIONS ON THE CHALLENGE OF INEZ MOORE: FAMILY INTEGRITY IN THE WAKE OF MASS INCARCERATION

Ann Cammett\*

## INTRODUCTION

The U.S. Supreme Court case *Moore v. City of East Cleveland*<sup>1</sup> has long been celebrated as affirming constitutional rights related to family integrity. The *Moore* holding specifically confirmed the Court's obligation to scrutinize housing ordinances that regulate a traditional family's household composition.<sup>2</sup> By comparison and extension, one might assume that alternative family formations would trigger similar scrutiny, but the Court has been loath to extend these protections.<sup>3</sup>

Apart from the Court's failure to increase protections beyond traditional extended families, an interesting phenomenon has gone largely unexplored in this jurisprudential framework. In the wake of late twentieth-century mass incarceration, lawmakers and courts have failed to protect the rights of any family—traditional, extended, or otherwise—that is burdened by criminal justice involvement. Given the decision in *Moore*, this paradox is especially ironic and poignant with regard to challenges related to maintaining family integrity in the housing context.

How would Inez Moore's constitutionally protected decision regarding the composition of her household play out in an era when families' options are severely constrained by the civil collateral consequences that flow from criminal convictions? Would she, as an African American grandmother and

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1. 431 U.S. 494 (1977).

2. *Id.* at 504 ("Ours is by no means a tradition limited to respect for the bonds uniting the members of the nuclear family. The tradition of uncles, aunts, cousins, and especially grandparents sharing a household along with parents and children has roots equally venerable and equally deserving of constitutional recognition.").

3. See Peggy Cooper Davis, *Moore v. City of East Cleveland: Constructing the Suburban Family*, in *FAMILY LAW STORIES* 77, 87 (Carol Sanger ed., 2008) (noting that the Court has historically found ways to protect family rights deemed fundamental by linking them to constitutional provisions that do not mention family).

family matriarch, be allowed to welcome, nurture, and support her extended family members trying to get back on their feet if they had criminal records—even minor ones? In pertinent part, that question can be answered by analyzing the powerful impact of mass criminalization on low-income families. Extended family patterns of cohabitation, historically utilized by black families,<sup>4</sup> have been severely tested by the policing norms of the emerging criminal justice state, which punish entire families for the actions of individuals, including children found guilty of even minor offenses. This Article seeks to expose the contradictions between the Court's purported embrace of families' choices in household composition and the government's punitive regulation of families when a member has a criminal record. Through law and policy targeting crime in public housing, the government has hampered the maintenance of family integrity in low-income black communities like that of Inez Moore, especially because mass incarceration affects poor African Americans more than others.<sup>5</sup>

#### I. COLLATERAL CONSEQUENCES OF MASS CRIMINALIZATION

It is understood that since 1977, when *Moore* was decided, a skyrocketing number of U.S. residents have been either incarcerated or convicted of a crime.<sup>6</sup> While those numbers have recently declined, the four-decade overuse of incarceration has resulted in a dizzying array of civil collateral consequences that hinder those seeking to reintegrate into society. These legal obstacles to accessing basic life necessities such as housing, employment, education, public benefits, the right to vote, and jury service constrain opportunities to resume citizenship, pursue economic advancement, and even ensure survival.<sup>7</sup> Due to the problem of mass criminalization, it is not uncommon for individuals to have criminal records; at least 70 million people—one in three adults—have arrest or

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4. The plurality decision in *Moore* did not explicitly mention race and socioeconomic class. Rather, in invalidating the single-family zoning ordinance, the Court focused on constitutional protections afforded to the extended family by questioning the "arbitrary boundary" on the nuclear family. *Moore*, 431 U.S. at 502. However, these boundaries implicate race and class quite directly. Justice William Brennan's concurring opinion, joined by Justice Thurgood Marshall, has long received praise for his explicit acknowledgment of extended family forms that are deserving of protection and their continuing relevance among black families who embrace them for both cultural and economic reasons. *Id.* at 508–09 (Brennan, J., concurring).

5. See ASHLEY NELLIS, SENTENCING PROJECT, THE COLOR OF JUSTICE: RACIAL AND ETHNIC DISPARITY IN STATE PRISONS 3 (2016), <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/> ("African Americans are incarcerated in state prisons at a rate that is 5.1 times the imprisonment of whites. In five states... the disparity is more than 10 to 1.") [<https://perma.cc/LXY3-4L54>].

6. Nearly 2.2 million Americans are behind bars today. *Criminal Justice Facts*, SENT'G PROJECT, <http://www.sentencingproject.org/criminal-justice-facts/> (last visited Apr. 14, 2017) [<https://perma.cc/WP7S-5AA8>].

7. See Ann Cammett, *Shadow Citizens: Felony Disenfranchisement and the Criminalization of Debt*, 117 PENN ST. L. REV. 349, 370 (2012).

conviction records.<sup>8</sup> However, poor communities disproportionately bear these convictions and the resulting stigmas. Those in poor communities have fewer resources and social support networks to assist in overcoming the disadvantages of criminal convictions.<sup>9</sup> When an individual has fewer opportunities due to a lack of personal resources, social connections, or networks, his or her reliance on the state for access to resources is greater. In this way, civil barriers that result from criminal convictions generally unfairly target the poor.<sup>10</sup> Therefore, many individuals struggling with the collateral effects of a criminal conviction rely more on family members to assist them in this time of need.<sup>11</sup>

## II. COLLATERAL CONSEQUENCES AND THE FAMILY

Collateral consequences do not simply hamper individuals. They can also have a devastating effect on the family. The loss of a previous earner's income and emotional support can create tremendous difficulties for those left behind. Family members, themselves often possessing limited financial means, have to pick up the slack for those who will need more support and resources than before.<sup>12</sup> Less appreciated are the consequences of parental criminal records on children.<sup>13</sup>

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8. LEGAL ACTION CTR., HELPING MOMS, DADS & KIDS TO COME HOME: ELIMINATING BARRIERS TO HOUSING FOR PEOPLE WITH CRIMINAL RECORDS 1 (2016), <https://indd.adobe.com/view/04243d7e-5a9a-4bd8-9d97-1bb1ce77b9c5> (adding that "at least 11 million people are cycling through our nation's jails, and more than 600,000 people are returning home from prison each year") [<https://perma.cc/C6T6-PFGD>].

9. See Anthony C. Thompson, *Navigating the Hidden Obstacles to Ex-Offender Reentry*, 45 B.C. L. REV. 255, 259 (2004) ("The ex-offender population has tended to recidivate due in part to an unavailability of economic and social supports.").

10. See Cammett, *supra* note 7, at 373–74 ("[R]egulations target income supports used by low-income people. For example, an ex-offender may be banned from living with a family member in public housing, denied eligibility for federal welfare and food stamp benefits, subjected to limits on financial aid for higher education, and faced with far reaching restrictions on employment [and licensing] opportunities."); see also Ann Cammett, *Expanding Collateral Sanctions: The Hidden Costs of Aggressive Child Support Enforcement Against Incarcerated Parents*, 13 GEO. J. ON POVERTY L. & POL'Y 313, 319 (2006) ("One aspect of these civil disabilities should be of particular interest to anti-poverty advocates. Collateral sanctions, particularly against people with drug convictions, affect poor people *almost exclusively*. . . . [S]anctions themselves deprive formerly incarcerated people of opportunities to lift themselves out of poverty . . . .").

11. See Rebecca L. Naser & Nancy G. LaVigne, *Family Support in the Prisoner Reentry Process: Expectations and Realities*, 43 J. OFFENDER REHABILITATION 93, 103 (2006) (reporting that released prisoners rely on family members for housing, financial, and emotional support, which are all integral to reintegration).

12. MITALI NAGRECHA ET AL., CTR. FOR CMTY. ALTS., FIRST PERSON ACCOUNTS OF CRIMINAL JUSTICE DEBT: WHEN ALL ELSE FAILS, FINING THE FAMILY 3 (2015), <http://communityalternatives.org/pdf/Criminal-Justice-Debt.pdf> ("While families have an important role to play in the successful reintegration of their family member, they should not have to bear the burden of debt repayment as a means to avert the re-incarceration of their loved one. This is particularly important as the financial condition of families of formerly incarcerated people is often precarious even without their shouldering financial penalties.") [<https://perma.cc/K5TB-XTQ7>].

13. See generally REBECCA VALLAS ET AL., CTR. FOR AM. PROGRESS, REMOVING BARRIERS TO OPPORTUNITY FOR PARENTS WITH CRIMINAL RECORDS AND THEIR CHILDREN: A TWO-GENERATION APPROACH 3 (2015), <https://cdn.americanprogress.org/wp-content/>

The Center for American Progress (“the Center”) estimates that “between 33 million and 36.5 million children in the United States—nearly half of U.S. children—now have at least one parent with a criminal record.”<sup>14</sup> Having a stable home, along with employment, has powerful antirecivism effects for parents with criminal histories. To that end, the Center examined five pillars of family well-being: income, savings and assets, education, housing, and family strength and stability.<sup>15</sup> It determined that all of these areas of family life are significantly diminished by criminalization.<sup>16</sup> Not surprisingly, they determined that barriers associated with a parent’s criminal record negatively affect both a child’s short- and long-term outcomes. Moreover, parental incarceration is increasingly considered to be what social scientists call an “Adverse Childhood Experience, . . . an experience that is associated with a greater risk of traumatic stress.”<sup>17</sup> This perpetuates poor outcomes for the children of incarcerated parents, diminishes opportunities for economic gain, and contributes to an intergenerational cycle of poverty.<sup>18</sup>

Paradoxically, as noted earlier, family support is absolutely critical to prisoners’ successful reentry.<sup>19</sup> Recently, policymakers and practitioners have actively begun to engage families in the reentry process based on the theory that strengthening families and social support networks will bring about more successful reentry outcomes.<sup>20</sup> One of the ways that families have traditionally helped defray the most immediate effects of a criminal conviction or period of incarceration is to provide housing to family members.<sup>21</sup> Access to housing curtails recidivism, affects employment opportunities, and provides prospects for family reunification.<sup>22</sup> It is in this

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uploads/2015/12/09060720/CriminalRecords-report2.pdf (analyzing the five pillars of family well-being and self-sufficiency) [https://perma.cc/JCZ8-YYMZ].

14. *Id.* at 1.

15. *Id.* at 2.

16. *Id.*

17. *Id.* at 3.

18. *Id.* at 15 (noting that, unsurprisingly, policies that help adults as both parents and workers can have a profound effect on a child’s long-term outlook and well-being).

19. FONTAINE ET AL., URBAN INST., FAMILIES AND REENTRY: UNPACKING HOW SOCIAL SUPPORT MATTERS, at iv (2012), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/1001630-Families-and-Reentry-Unpacking-How-Social-Support-Matters.pdf> (“It is well known that families and social support networks play a critical role in prisoners’ transition from incarceration to the community. . . . Case management techniques that are family-inclusive and family-focused have been shown to reduce the likelihood that an individual will return to criminal activity.” (citation omitted)) [https://perma.cc/V93Q-8N59].

20. *Id.*

21. *Id.* at 1; *see also id.* at 44 (“Both formerly incarcerated persons and family members acknowledged that affordable housing is a critical shortage, not just for those returning from prison. Some suggested the need for a series of housing options that would enable [formerly incarcerated persons] to move along a continuum of subsidized housing as they are increasingly able to assume responsibility for their own living arrangements.”).

22. *See* AFOMEIA TESFAI & KIM GILHULY, HUMAN IMPACT PARTNERS, THE LONG ROAD HOME: DECREASING BARRIERS TO PUBLIC HOUSING FOR PEOPLE WITH CRIMINAL RECORDS 23–24 (2016), <http://www.humanimpact.org/wp-content/uploads/OHA-HIA-Final-Report.pdf> (citing a 2015 survey in fourteen states of 712 formerly incarcerated people and 388 family members of formerly incarcerated people with results showing that 58 percent of

context that we return to the challenge faced by the many Inez Moores of the twenty-first century—those who seek to provide stability to family members by sharing their homes.

### III. COLLATERAL CONSEQUENCES AND PRIVATE HOUSING

Access to affordable housing is one of the most critical issues currently facing all low-income families. “For African Americans lingering economic disparities arising from generations of forced racial segregation and the disproportional impact of mass incarceration have magnified [this] problem[.]”<sup>23</sup>

African Americans still tend to have much lower home ownership rates and less equity in those homes.<sup>24</sup> Even though Inez Moore owned her home in the 1970s, she was not a woman of means.<sup>25</sup> She still experienced enough economic marginality to qualify for Legal Aid services to pursue the case that bears her name. However, what ownership of property did confer upon her—especially subsequent to the Supreme Court decision—was the right to lay claim to her family and to house an extended family member of her choosing.

For communities of color, owning a home and being able to house family is no small matter. Criminal record restrictions for private housing have been an accepted and enforced practice across the country for decades—excluding many renters who are then forced to seek shelter on the commercial rental market.<sup>26</sup> To complicate matters further, ownership does not necessarily mean that one can take the full measure of rights as a property owner. Some state and local ordinances create mandatory housing restrictions for people with criminal convictions that presumably (although questionably) supersede property rights.<sup>27</sup> At least in theory, such ordinances could ironically render a family member an “illegal occupant”—much in the way that Inez Moore’s grandson John Jr. was deemed to be.<sup>28</sup>

Exclusionary practices in private housing have become so pervasive that the Department of Housing and Urban Development (HUD) stepped in to

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participants were living with family members and 9 percent were living in transitional housing or housing that was not intended to be permanent) [<https://perma.cc/2NXY-WXWM>].

23. Ann Cammett, *Confronting Race and Collateral Consequences in Public Housing*, 39 SEATTLE U. L. REV. 1123, 1124 (2016) (footnote omitted) (detailing the intersection of federal housing policy contributing to segregation and exclusions from federal public housing based on criminal convictions).

24. See LAURA SULLIVAN ET AL., DEMOS & BRANDEIS UNIV. INST. ON ASSETS & SOC. POLICY, THE RACIAL WEALTH GAP: WHY POLICY MATTERS 1–2 (2015), [http://www.demos.org/sites/default/files/publications/RacialWealthGap\\_1.pdf](http://www.demos.org/sites/default/files/publications/RacialWealthGap_1.pdf) (noting longstanding homeownership and home equity disparities) [<https://perma.cc/RAJ8-KA5J>].

25. See Davis, *supra* note 3, at 78 (“In court proceedings she was represented by the Legal Aid Society of Cleveland and proceeded in forma pauperis.”).

26. See LEGAL ACTION CTR., *supra* note 8, at 2.

27. *Id.* at 12 (surveying state and local options for housing ordinances or voluntary programs that actively encourage landlords to deny housing to individuals involved with the criminal justice system).

28. Moore v. City of East Cleveland, 431 U.S. 494, 497 (1977).

provide guidance for private landlords.<sup>29</sup> People with criminal records are not a protected class under the Fair Housing Act. Nevertheless, “blanket policies of refusing to rent to anybody with a criminal record are de facto discrimination . . . because of the systemic [racial] disparities of the American criminal justice system.”<sup>30</sup> Thus, property owners who wish to house family members that have criminal convictions probably have the legal recourse to do so, despite pressures on them by municipalities that would urge exclusion of all people with criminal records of any kind.

The practice of using blanket exclusions to deny private housing indicates that criminal convictions themselves have become a proxy for inherent “unworthiness” and serve as pretext for denying housing under the guise of protecting public safety. However, these blanket exclusions are circular in their logic. Low-income communities of color have been the most targeted by all aspects of the criminal justice state—including policing, arrest, conviction, and disproportionate sentencing.<sup>31</sup> Yet in communities targeted by overzealous policing, the impact of these labels further hampers the ability of individuals to maintain family relations and work toward building strong communities. Even so, homeowners affected by incarceration retain some authority to house family members as they see fit. For those in public housing—arguably poorer, more vulnerable, and thus more in need of constitutional protection—the law has evolved to divest these families entirely of the right to make decisions regarding many aspects of their lives, including family composition.

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29. See U.S. DEP’T OF HOUS. & URBAN DEV., GUIDANCE ON APPLICATION OF THE FAIR HOUSING ACT STANDARDS TO THE USE OF CRIMINAL RECORDS BY PROVIDERS OF HOUSING AND REAL ESTATE-RELATED TRANSACTIONS 2 (2016), [https://portal.hud.gov/hudportal/documents/huddoc?id=HUD\\_OGCGuidAppFHASandCR.pdf](https://portal.hud.gov/hudportal/documents/huddoc?id=HUD_OGCGuidAppFHASandCR.pdf) (“[C]riminal records-based barriers to housing are likely to have a disproportionate impact on minority home seekers. While having a criminal record is not a protected characteristic under the Fair Housing Act, criminal history-based restrictions on housing opportunities violate the Act if, without justification, their burden falls more often on renters or other housing market participants of one race or national origin over another.”) [<https://perma.cc/2FSY-B6XT>].

30. Camila Domonoske, *Denying Housing over Criminal Record May Be Discrimination, Feds Say*, NPR (Apr. 4, 2016, 1:14 AM), <http://www.npr.org/sections/thetwo-way/2016/04/04/472878724/denying-housing-over-criminal-record-may-be-discrimination-feds-say> [<https://perma.cc/AVW6-N86L>].

31. C. Eugene Emery, Jr., *Hillary Clinton Says Blacks More Likely to Be Arrested, Get Longer Sentences*, POLITIFACT (Feb. 26, 2016, 3:09 PM), <http://www.politifact.com/truth-o-meter/statements/2016/feb/26/hillary-clinton/hillary-clinton-says-blacks-more-likely-be-arreste/> [<https://perma.cc/M5LP-SYT4>]; see also SENTENCING PROJECT, REPORT OF THE SENTENCING PROJECT TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE REGARDING RACIAL DISPARITIES IN THE UNITED STATES CRIMINAL JUSTICE SYSTEM 1 (2013), <http://sentencingproject.org/wp-content/uploads/2015/12/Race-and-Justice-Shadow-Report-ICCPR.pdf> (“Racial minorities are more likely than white Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, they are more likely to face stiff sentences. African American males are six times more likely to be incarcerated than white males and 2.5 times more likely than Hispanic males.”) [<https://perma.cc/3E2H-45LD>].

## IV. COLLATERAL CONSEQUENCES AND PUBLIC HOUSING

In previous writings, I have explored how exclusion from publicly subsidized housing because of criminal convictions serves as a powerful form of race discrimination.<sup>32</sup> There, I explained that generations of racial segregation leading to overrepresentation of African Americans in public housing in conjunction with the racial impact of mass incarceration have resulted in the tenancies of African Americans being more at risk. Moreover, I noted that “[e]victions, denial of admission, and permanent exclusion of family members from public housing—based on almost any type of criminal system exposure—have served to further entrench poverty, contribute to homelessness, and trigger unwarranted family disruption.”<sup>33</sup> More importantly, because status as a public housing resident does not confer any “rights” to family integrity when confronted with evidence of a criminal conviction, formerly incarcerated individuals are denied the basic constitutional protections afforded to families seeking the self-definition that *Moore* represents.

Beginning in the 1970s, Public Housing Authorities (PHAs) have been required to examine the criminal histories of public housing applicants for evidence of “physical violence to persons or property or other criminal acts that would affect the health, safety, or welfare of other tenants.”<sup>34</sup> Since then, most PHAs have elected to adopt broad screening policies that exclude applicants with criminal histories.<sup>35</sup> The government’s War on Drugs during the 1980s and 1990s gave rise to federal laws that required zero tolerance for any criminal behavior in public housing.<sup>36</sup> Collectively, these laws were known as “One Strike.”<sup>37</sup>

According to its proponents, One Strike policy reflected concerns that crime within public housing authorities made “intervention and eviction remedies necessary to address criminal behavior by public housing tenants, their children, and their guests.”<sup>38</sup> Critics acknowledge that public safety is an important interest for the entire community but argue that zero tolerance rules that result in regular evictions of low-income families (often for minor drug activity) create more family displacement than safety in public housing projects. For example, I have previously noted that

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32. See generally Cammett, *supra* note 23.

33. *Id.* at 1124.

34. NAT’L HOUS. LAW PROJECT, AN AFFORDABLE HOME ON RE-ENTRY: FEDERALLY ASSISTED HOUSING AND PREVIOUSLY INCARCERATED INDIVIDUALS 1 (2008), <http://www.reentry.net/ny/search/download.149254> [<https://perma.cc/4DTH-KFGC>]; see also Cammett, *supra* note 23, at 1138.

35. See Cammett, *supra* note 23, at 1138.

36. See, e.g., 42 U.S.C. § 1437d(1)(6) (2012) (“[A]ny criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant’s household, or any guest or other person under the tenant’s control, shall be cause for termination of tenancy.”); see also Cammett, *supra* note 23, at 1139.

37. Cammett, *supra* note 23, at 1138.

38. *Id.*



[l]egal scholar Regina Austin insightfully observe[d]: "...those adversely impacted by the campaign have been poor single minority female heads of household, often senior citizens, who are living with their actual or adopted offspring, one or more of whom, usually an adolescent or young adult male child or grandchild, sells or possesses drugs."

Stated differently, the impact of One Strike redounds to the detriment of some innocent people who have the least power and economic resources to resist its full impact. Low-income tenants, especially older mothers trying to hold families together, are the ones that invoke the most compelling claims of unfairness. . . . [E]victions [of entire families] can and do routinely occur for minor marijuana use, an activity which is fairly common among youth.<sup>39</sup>

Black youth, however, are most vulnerable to state surveillance and, consequently, families often pay a heavier price for youthful indiscretions.

In the case of One Strike, HUD has argued that the statute gives local PHAs the power to evict entire families, no matter how trivial the offense. The leaseholder's lack of knowledge or responsibility does not matter. As I discuss in a previous work, "The U.S. Supreme Court addressed this question in *Department of Housing & Urban Development v. Rucker* in 2002."<sup>40</sup> *Rucker* was "a class action suit brought by Oakland Housing Authority tenants, including a grandmother named Pearlie Rucker (whose mentally ill daughter incurred a drug conviction)."<sup>41</sup> In a unanimous decision, the Court ruled in favor of HUD.<sup>42</sup>

Many condemned the harsh results that followed after *Rucker*, but to no avail. For example, Representative Barbara Lee of California failed to move legislation out of committee that would amend One Strike to exempt "elderly tenants and those who were not aware of such criminal activity" from being evicted or denied admissions into a housing project.<sup>43</sup> Despite these concerns, One Strike policy remains the law of the land.

The *Moore* case established a requirement that courts scrutinize housing ordinances that regulate a family's household composition. But public housing residents who are subject to eviction in cases like those resulting from One Strike have no ability to invoke their constitutional right to keep their families intact. Strict liability allows PHAs to exercise their authority to evict families, whatever the impact.

The effect of a criminal conviction, even for minor drug activity, on the life of a young person in subsidized housing can be even more devastating. Instead of eviction, some PHAs grant exceptions and allow for "permanent

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39. *Id.* at 1141–42 (footnote omitted) (quoting Regina Austin, "Step on a Crack, Break Your Mother's Back": Poor Moms, Myths of Authority, and Drug-Related Evictions from Public Housing, 14 YALE J.L. & FEMINISM 273, 275 (2002)).

40. *Id.* at 1140.

41. *Id.*

42. Dep't of Hous. & Urban Dev. v. Rucker, 535 U.S. 125, 127–28 (2002).

43. Cammett, *supra* note 23, at 1142 (citing H.R. 173, 110th Cong. (2007); All Actions: H.R. 173—One Strike and You're Out! Act of 2007, CONGRESS.GOV, <https://www.congress.gov/bill/110th-congress/house-bill/173/all-actions-without-amendments?q=%7B%22search%22%3A%5B%22hr173%22%5D%7D&r=6> (last visited Apr. 14, 2017) [<https://perma.cc/EYD5-QMB7>]).

exclusion” of offending parties, even minors, “for the leaseholder to retain her tenancy.”<sup>44</sup> As I have stated, “Such a situation creates a conflict of interest between parents and their offspring, leaving many families with the terrible choice of whether to send a member into exile for life or relinquish the family’s home.”<sup>45</sup> This devolution of family rights makes a mockery of the promise of *Moore*—that families can define themselves as they wish and their interests will be constitutionally protected.

#### CONCLUSION

In an era of mass criminalization, the state’s right to intervene in the lives of families, under the guise of public safety, trumps the constitutional rights of people struggling to keep their families together. Families should not have to forfeit fundamental rights to service a state’s strict liability doctrine simply because they are poor and live in public housing. Extending the logic of *Moore* to require the government to extend protections to alternative family formations beyond those deemed normative might not be enough. Another logical extension of *Moore*, and a more transformative one, would be to require the state to protect families from unwarranted and destructive interference as a result of minor criminal justice involvement.

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44. *Id.* at 1144.

45. *Id.* (footnote omitted) (citing Wendy J. Kaplan & David Rossman, *Called “Out” at Home: The One Strike Eviction Policy and Juvenile Court*, 3 DUKE F. FOR L. & SOC. CHANGE 109, 110 (2011)).